EXHIBIT B

Exhibit 9 has been filed under seal under separate cover

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

- - - - - - - - - - - - - - -X
)
GEN-PROBE INCORPORATED, )
) NO.99cv2668 H (AJB)
Plaintiff, )
VS. )
)
VYSIS, INC., )
)
Defendant. )
)
- - - - - -- - - - - - - - X

CONFIDENTIAL

Videotaped Deposition of
JONATHON MICHAEL LAWRIE, Ph.D.
Durham, North Carolina
Thursday, February 15, 2001

Reported by:
Sydney C. Silva, Registered Professional Reporter
File No:

COPY

Ex. 9 Pg. 45

A. No. 14:34:16

Q. Do you know whether there's any reference in the patent to a combination of target capture with a target-specific method of application -- of amplification? 14:34:17 14:34:19 14:34:25 14:34:26

A. This patent here? 14:34:27

Q. Yes. 14:34:29

A. I haven't read it completely, just the pieces you have shown me. 14:34:29 14:34:32

Q. When the patent application was filed, did you have any impression about whether the greatest degree of specificity sensitivity might be obtained by combining target capture with a target-specific method of amplification? 14:34:34 14:34:36 14:34:38 14:34:42 14:34:47

A. I don't remember. 14:34:56

Q. Does that stand to reason at all? 14:34:56

A. I don't think so. I don't know what the thought process would have been back then. 14:34:58 14:35:00

Q. Can you recall any reason that a reference to PCR might have been intentionally omitted from the patent application? 14:35:03 14:35:05 14:35:08

A. Yes. 14:35:15

Q. And what reason was that? Let me, let me start over. 14:35:15 14:35:23

Ex. 9 Pg. 46

Was a reference to PCR intentionally omitted from the patent to the best of your understanding? 14:35:24 14:35:27 14:35:29

A. I don't know. 14:35:30

Q. Were there discussions about whether or not to include a reference to PCR in the patent? 14:35:31 14:35:32

A. I can't remember. 14:35:36

Q. So at Amoco you had a thought about combining target capture with PCR, is that right? 14:35:47 14:35:51

A. Yes. 14:35:54

Q. Gene-Trak then did work in an effort to combine target capture with PCR, is that right? 14:35:55 14:35:58

A. From seeing this here, yes. 14:36:03

Q. Do you have a recollection of that? 14:36:05

A. No. 14:36:07

Q. If there's no reference in the patent to combining target capture with PCR, do you have any explanation as to why it is not there? 14:36:07 14:36:09 14:36:13

A. I believe that it was a separate -- the thought behind this was coming up with new methods of amplification, not old ones. 14:36:15 14:36:17 14:36:19

Q. And you would, for the purposes of what you just said, you classify PCR as an old method of amplification? 14:36:31 14:36:32 14:36:36

A. PCR itself was described in the patent, yes, issued patent. 14:36:37 14:36:40

Q. And your understanding of the 338 patent was that it was directed to other methods of amplification? 14:36:41 14:36:44 14:36:47

A. The, it was, it was directed to the methods disclosed by, you know, the methods separate from PCR. 14:36:48 14:36:54 14:36:59

Q. Those being the methods, for example, as the methods set forth in Example 6 and 7? 14:37:07 14:37:10

A. Yes. 14:37:14

Q. Is it your understanding that the 338 patent then doesn't encompass the combination of target capture and PCR? 14:37:20 14:37:22 14:37:28

MR. BANKS: Object to the form. 14:37:30

A. I couldn't say. 14:37:31

Q. I'm sorry? 14:37:32

A. I couldn't say. 14:37:32

Q. Was it your intention that it encompass the combination of target capture and PCR? 14:37:33 14:37:38

A. I don't know. I can't remember what the intention was in regards to PCR. 14:37:40 14:37:41

Q. However, your recollection of why -- of if there's no -- your explanation of why there 14:37:49 14:37:50

Ex. 9 Pg. 48

might not be a reference to PCR in the patent is that the patent wasn't intended to cover old methods of amplification such as PCR; is that right? 14:37:53 14:37:56 14:38:03 14:38:06

A. The patent was intended to cover the discoveries by myself, Halbert and King that there should be in some, you know, disclosure back at Amoco. That's what the patent was about. 14:38:07 14:38:09 14:38:15 14:38:16

why PCR was left out I can just speculate. It wasn't what we came with, it was in the previous, it was a previous older method. 14:38:22 14:38:26 14:38:30

Q. You were looking for other things? 14:38:33

A. Yeah. 14:38:36

MR. BOWEN: Let's assume that the patent application for the 330 patent was filed on December 21, 1987. Can we stipulate to that? 14:39:04 14:39:06 14:39:10

MR. BANKS: For which patent? 14:39:16

MR. BOWEN: The 330. 14:39:18

MR. BANKS: The 330? Moving to a different one now? 14:39:20 14:39:21

MR. BOWEN: I'm confused this late in the day, huh? The first application that claimed the combination of target capture and amplification. 14:39:22 14:39:25 14:39:27 14:39:32

Example 5 is a linear method? 16:21:41

A. Let's see. 16:21:44

Yes, it is linear. 16:22:29

Q. So Example 5 discloses a linear nonspecific method of amplification? 16:22:31 16:22:34

A. Yes. 16:22:37

Q. So recapping the examples, Examples 1 through 3 disclose capture methods without amplification? 16:22:38 16:22:43 16:22:46

A. Yes. 16:22:48

Q. And Example 4 discloses linear nonspecific amplification? 16:22:49 16:22:53

A. Yes. 16:22:54

Q. Example 5 discloses linear nonspecific amplification? 16:22:55 16:22:59

A. Yes. 16:23:00

Q. Example 6 seeks to describe nonspecific exponential amplification? 16:23:02 16:23:10

A. Let's see. Yes. 16:23:13

Q. And Example 7 describes -- seeks to describe nonspecific exponential amplification? 16:23:18 16:23:22

A. Yes. 16:23:28

Q. Looking back at Column 30, specifically at Lines 30 through 40, which I think is two 16:23:44 16:23:48